

104TH CONGRESS
2D SESSION

S. 1633

To provide for school bus safety, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 21, 1996

Mr. LAUTENBERG introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To provide for school bus safety, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; FINDINGS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Omnibus School Transportation Safety Act of 1996”.

6 (b) FINDINGS.—The Congress finds the following:

7 (1) In the United States, school buses travel
8 more than 4,000,000,000 miles each year to trans-
9 port approximately 25,000,000 children to and from
10 school and various school-related activities.

11 (2) School buses are specifically designed to
12 carry children safely to and from school, and gen-

erally are operated by educational agencies that receive Federal assistance for educational activities.

(3) On the average, each year in the United States—

(A) 17 occupants are killed while riding school buses, of which—

(i) 10 pupils are killed while riding type I school buses with a gross weight rating of greater than 10,000 pounds, and those school buses are predominantly used in the United States;

(ii) 2 pupils are killed while riding other vehicles used as school buses; and

(iii) 5 drivers are killed while driving school buses;

(B) 38 children are killed in loading zones surrounding school buses;

(C) 480 children are seriously injured while riding school buses; and

(D) 160 children are seriously injured while boarding or leaving school buses.

(4) Although most crashes involving school buses are minor, some examples of serious crashes that have had tragic consequences, include—

1 (A) the school bus crash that occurred in
2 Alton, Texas;

3 (B) the school bus crash that occurred in
4 October of 1995, in Fox River Grove, Illinois;
5 and

6 (C) the recent school bus crash outside of
7 Green Bay, Wisconsin, that killed the driver.

8 (5) Each year approximately 35,000 school
9 buses are manufactured in the United States. The
10 components for those buses are produced in various
11 locations throughout the United States. The few
12 companies that manufacture those buses ship the
13 buses throughout the United States and to foreign
14 countries.

15 (6) Numerous Federal laws, including subtitle
16 VI of title 49, United States Code, regulate school
17 buses as commercial motor vehicles. Subtitle VI of
18 title 49, United States Code, provides for—

19 (A) motor vehicle safety standards under
20 chapter 311 of that subtitle; and

21 (B) the regulation of commercial motor ve-
22 hicle operators under chapter 313 of that sub-
23 title.

1 **SEC. 2. DEFINITIONS.**

2 For purposes of this Act, the following definitions
3 shall apply:

4 (1) BUS.—The term “bus” means a motor vehi-
5 cle with motive power, except a trailer, designed for
6 carrying more than 10 persons.

7 (2) LOCAL EDUCATIONAL AGENCY.—The term
8 “local educational agency” means a local educational
9 agency (as that term is defined in section 14101 of
10 the Elementary and Secondary Education Act of
11 1965 (20 U.S.C. 8801)) that receives Federal funds.

12 (3) NATIONAL CRIMINAL HISTORY BACK-
13 GROUND CHECK SYSTEM.—The term “national
14 criminal history background check system” has the
15 meaning given that term in section 5(6) of the Na-
16 tional Child Protection Act of 1993 (42 U.S.C.
17 5119c(6)).

18 (4) NEWLY EMPLOYED.—With respect to the
19 employment of a school bus driver by an employer,
20 the term “newly employed” applies to the initial em-
21 ployment of an individual who has not been similarly
22 employed by that employer.

23 (5) POSTSECONDARY INSTITUTION.—The term
24 “postsecondary institution” means an institution of
25 higher education, as that term is defined in section

1 481(a)(1) of the Higher Education Act of 1965 (20
2 U.S.C. 1088(a)(1)).

3 (6) PRIVATE SCHOOL.—The term “private
4 school” includes any private postsecondary institu-
5 tion.

6 (7) SCHOOL BUS.—The term “school bus”—

7 (A) means a bus that is used for purposes
8 that include carrying pupils to and from a pub-
9 lic or private school or school-related events on
10 a regular basis; and

11 (B) does not include a transit bus or a
12 school-chartered bus.

13 (8) SCHOOL-CHARTERED BUS.—The term
14 “school-chartered bus” means a bus that is operated
15 under a short-term contract with State, local, or pri-
16 vate school authorities, which have acquired exclu-
17 sive use of the bus at a fixed charge in order to pro-
18 vide transportation for a group of pupils to a special
19 school-related event.

20 (9) SECRETARY.—The term “Secretary” means
21 the Secretary of Transportation.

22 (10) STATE.—The term “State” means each of
23 the 50 States, the District of Columbia, and the
24 Commonwealth of Puerto Rico.

1 **SEC. 3. PROFICIENCY STANDARDS FOR SCHOOL BUS**
2 **DRIVERS.**

3 (a) PROFICIENCY STANDARDS.—Not later than 1
4 year after the date of enactment of this Act, the Secretary
5 shall issue regulations establishing proficiency standards
6 for school bus drivers (including drivers of school-char-
7 tered buses) who are required under applicable State law
8 to possess a commercial driver's license to operate a school
9 bus.

10 (b) EXEMPTION FOR CERTAIN STATES.—The regula-
11 tions issued under subsection (a) shall provide that a State
12 may use State proficiency standards, in lieu of the stand-
13 ards established by such regulations, if—

14 (1) the State proficiency standards are estab-
15 lished before the date on which the proficiency
16 standards under such regulations are established;
17 and

18 (2) the Secretary determines that such State
19 proficiency standards are as rigorous as the pro-
20 ficiency standards under such regulations.

21 (c) DEMONSTRATION OF PROFICIENCY.—Upon the
22 establishment of the proficiency standards under sub-
23 section (a), each school bus driver referred to in such sub-
24 section shall demonstrate (at such intervals as the Sec-
25 retary shall prescribe) to the employer of the driver, the
26 local educational agency, the State licensing agency, or

1 other person or agency responsible for regulating school
 2 bus drivers, the proficiency of that driver in operating a
 3 school bus in accordance, as the case may be, with the
 4 proficiency standards—

5 (1) established by the regulations issued under
 6 subsection (a); or

7 (2) established by the State concerned and de-
 8 termined by the Secretary to be as rigorous as the
 9 proficiency standards established by the regulations
 10 issued under subsection (a).

11 **SEC. 4. CRIMINAL BACKGROUND CHECKS OF SCHOOL BUS**
 12 **DRIVERS.**

13 (a) PROHIBITION ON EMPLOYMENT PENDING
 14 CHECK.—Notwithstanding any other provision of law, no
 15 local educational agency, private school, or contractor pro-
 16 viding school transportation services to a local educational
 17 agency or private school, may newly employ an individual
 18 as a driver of a school bus of, or on behalf of, the agency
 19 or private school before the completion of a background
 20 check of that individual through the national criminal his-
 21 tory background check system to determine whether the
 22 individual has been convicted of a crime which would war-
 23 rant barring the person from duties as a driver of a school
 24 bus.

25 (b) BACKGROUND CHECK PROCEDURES.—

1 (1) IN GENERAL.—Each State shall establish
 2 procedures for conducting a background check under
 3 this section.

4 (2) REQUIREMENTS FOR PROCEDURES.—The
 5 procedures established under this subsection shall
 6 include the designation of an agency of the State
 7 to—

8 (A) carry out the background checks; and

9 (B) meet the guidelines set forth in section
 10 3(b) of the National Child Protection Act of
 11 1993 (42 U.S.C. 5119a(b)).

12 (c) LIMITATION ON LIABILITY.—A local educational
 13 agency, private school, or a contractor providing school
 14 transportation services to a local educational agency or
 15 private school shall not be liable in an action for damages
 16 on the basis of a criminal conviction of a person employed
 17 by that agency or contractor as a school bus driver if—

18 (1) a background check of the person was con-
 19 ducted under this section; and

20 (2) the conviction was not disclosed to the local
 21 agency, private school, or contractor providing such
 22 transportation services pursuant to the background
 23 check.

24 (d) FEES.—

1 (1) IN GENERAL.—The Director of the Federal
2 Bureau of Investigation may impose and collect a
3 fee for providing assistance in the conduct of a back-
4 ground check under this section. The amount of
5 such fee may not exceed the actual cost to the Fed-
6 eral Bureau of Investigation for providing such as-
7 sistance.

8 (2) MONITORING.—The Attorney General of the
9 United States shall monitor the collection of fees
10 under this subsection for purposes of ensuring
11 that—

12 (A) the fees are collected on a uniform
13 basis; and

14 (B) the amounts collected reflect only the
15 actual cost to the Federal Bureau of Investiga-
16 tion of providing assistance in the conduct of
17 background checks under this section.

18 (e) APPLICABILITY.—

19 (1) IN GENERAL.—Except as provided in para-
20 graph (2), this section shall apply to an individual
21 newly employed by a local educational agency, pri-
22 vate school, or contractor providing school transpor-
23 tation services to a local educational agency or pri-
24 vate school beginning on the later of—

1 (A) the date that is 60 days after the date
2 of enactment of this Act; or

3 (B) the date on which the State agency in
4 which the local educational agency, private
5 school, or contractor providing such transpor-
6 tation services is located establishes the proce-
7 dures required under subsection (c).

8 (2) BACKGROUND CHECKS CONDUCTED BY THE
9 FBI.—

10 (A) IN GENERAL.—To the maximum ex-
11 tent practicable, during the period specified in
12 subparagraph (B), a local educational agency,
13 private school, or contractor providing school
14 transportation services shall request that the
15 Federal Bureau of Investigation conduct a
16 background check with fingerprints of each in-
17 dividual newly employed by the local edu-
18 cational agency, private school, or contractor as
19 a school bus driver of the local educational
20 agency, private school, or contractor.

21 (B) PERIOD OF APPLICABILITY.—Subpara-
22 graph (A) shall apply to a local educational
23 agency, private school, or contractor providing
24 school transportation services during the period
25 beginning on the date of enactment of this Act

1 and ending on the date of applicability of this
2 section, as determined under paragraph (1).

3 (f) FUNDING.—

4 (1) VIOLENCE PREVENTION PROGRAMS.—Sec-
5 tion 4116(b)(5) of the Elementary and Secondary
6 Education Act of 1965 (20 U.S.C. 7116(b)(5)) is
7 amended by striking “and neighborhood patrols”
8 and inserting “neighborhood patrols, and criminal
9 background checks of potential drivers of school
10 buses under section 4 of the Omnibus School Trans-
11 portation Safety Act of 1996”.

12 (2) INNOVATIVE EDUCATION ASSISTANCE.—
13 Section 6301(b) of the Elementary and Secondary
14 Education Act of 1965 (20 U.S.C. 7351(b)) is
15 amended—

16 (A) by striking “and” at the end of para-
17 graph (7);

18 (B) by striking the period at the end of
19 paragraph (8) and inserting “; and”; and

20 (C) by adding at the end the following new
21 paragraph:

22 “(9) the carrying out of criminal background
23 checks of potential drivers of school buses under sec-
24 tion 4 of the Omnibus School Transportation Safety
25 Act of 1996.”.

1 **SEC. 5. DEVELOPMENT OF INTELLIGENT VEHICLE-HIGH-**
 2 **WAY SYSTEMS FOR SCHOOL BUS SAFETY.**

3 Section 6055(d) of the Intelligent Vehicle-Highway
 4 Systems Act of 1991 (23 U.S.C. 307 note) is amended—

5 (1) by striking “and” at the end of paragraph
 6 (2);

7 (2) by striking the period at the end of para-
 8 graph (3) and inserting “; and”; and

9 (3) by adding at the end the following new
 10 paragraph:

11 “(4) ensure that 1 or more operational tests ad-
 12 vance the use and reduce the cost of intelligent vehi-
 13 cle-highway system technologies (including hazard
 14 warning systems or sensors) that alert school bus
 15 drivers of pedestrians or vehicles in, or approaching,
 16 the path of the school bus.”.

17 **SEC. 6. STUDY OF OCCUPANT RESTRAINTS IN SCHOOL**
 18 **BUSES.**

19 (a) STUDY.—The National Transportation Safety
 20 Board organized under chapter 11 of title 49, United
 21 States Code, shall conduct a study on the safety con-
 22 sequences of the requirement of the State of New Jersey
 23 for lap belts in school buses.

24 (b) REPORT.—Not later than 2 years after the date
 25 of enactment of this Act, the Chairman of the National
 26 Transportation Safety Board shall submit to the Congress

1 a report containing the findings of the study conducted
 2 under this section.

3 (c) AUTHORIZATION OF APPROPRIATIONS.—There
 4 are authorized to be appropriated to the National Trans-
 5 portation Safety Board to carry out this section \$100,000,
 6 which shall remain available until expended.

7 **SEC. 7. TRAFFIC ENGINEERING ACTIVITIES TO IMPROVE**
 8 **SCHOOL BUS SAFETY.**

9 Notwithstanding any other provision of law, the Sec-
 10 retary shall ensure that each State receiving aid to con-
 11 duct highway safety programs under section 402(c) of title
 12 23, United States Code, may utilize a portion of such aid
 13 for the purpose of conducting traffic engineering activities
 14 in order to improve the safe operation of school buses.

15 **SEC. 8. DETERMINATION OF PRACTICABILITY AND FEA-**
 16 **SIBILITY OF CERTAIN SAFETY AND ACCESS**
 17 **REQUIREMENTS FOR SCHOOL BUSES.**

18 (a) COMMENCEMENT OF RULEMAKING PROCESS.—
 19 Not later than 6 months after the date of the enactment
 20 of this Act, the Secretary shall commence or continue to
 21 carry out a rulemaking process to determine the feasibility
 22 and practicability of—

23 (1) a requirement for a decrease in the flam-
 24 mability of the materials used in the construction of
 25 the interiors of school buses;

1 (2) a requirement that individuals, local edu-
2 cational agencies, or companies that sell in the sec-
3 ondary market school buses that may be used in
4 interstate commerce inform purchasers of those
5 buses that those buses may not meet applicable Na-
6 tional Highway Transportation Safety Administra-
7 tion standards or Federal Highway Administration
8 standards; and

9 (3) the establishment of construction and de-
10 sign standards for wheelchairs used in the transpor-
11 tation of pupils in school buses.

12 (b) FINAL RULE.—Not later than 30 months after
13 the date of enactment of this Act, the Secretary shall issue
14 a final regulation providing for any requirement or stand-
15 ard referred to in paragraph (1), (2), or (3) of subsection
16 (a) that the Secretary determines to be feasible and prac-
17 ticable.

18 (c) REPORT TO CONGRESS.—If the Secretary makes
19 a determination that a requirement or standard referred
20 to in paragraph (1), (2), or (3) is not feasible or prac-
21 ticable, not later than the date specified in subsection (b),
22 the Secretary shall prepare and submit to the Congress
23 a report that provides the reasons for that determination.

1 **SEC. 9. GUIDELINES FOR SAFE TRANSPORTATION OF CHILDREN BY SCHOOL BUS.**
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3 The Administrator of the National Highway Traffic
 4 Safety Administration shall develop and disseminate
 5 guidelines for ensuring the safe transportation in school
 6 buses of children under the age of 5. Those guidelines
 7 shall include recommendations for the evacuation of such
 8 children from such buses in the event of an emergency.

9 **SEC. 10. DISSEMINATION OF INFORMATION ON SCHOOL
 10 BUS SAFETY.**

11 (a) DISSEMINATION OF INFORMATION.—In carrying
 12 out research on highway safety under section 403 of title
 13 23, United States Code, in consultation with the appro-
 14 priate officials or representatives of the American Auto-
 15 mobile Association, State educational agencies, and high-
 16 way safety organizations, the Secretary shall provide for
 17 the improvement of—

- 18 (1) training materials on school bus safety; and
- 19 (2) the distribution and availability of such ma-
 20 terials to public and private schools for use by the
 21 student safety patrols of those schools and to appro-
 22 priate law enforcement agencies.

23 (b) FUNDING.—Notwithstanding any other provision
 24 of law, of the funds made available to the Secretary for
 25 research on highway safety and traffic conditions under
 26 section 403 of title 23, United States Code, for each of

1 fiscal years 1996 through 2001, \$100,000 shall be avail-
 2 able for each of those fiscal years for the purposes of car-
 3 rying out this section.

4 **SEC. 11. STUDY AND REPORT ON SCHOOL BUS SAFETY.**

5 (a) STUDY.—

6 (1) IN GENERAL.—The Secretary shall carry
 7 out a study to determine—

8 (A) the extent to which public transit vehi-
 9 cles (as defined by the Secretary) are engaged
 10 in school bus operations;

11 (B) the point at which a public transit ve-
 12 hicle is sufficiently engaged in such operations
 13 as to be considered a school bus for purposes of
 14 regulation under Federal law; and

15 (C) the differences between school bus op-
 16 erations carried out directly by schools or local
 17 educational agencies and school bus operations
 18 carried out by schools or local educational agen-
 19 cies by contract or tripper service (as defined by
 20 the Secretary).

21 (2) AREAS.—The study conducted under this
 22 subsection shall address the differences between the
 23 services and operations referred to in paragraph
 24 (1)(C) in terms of—

25 (A) crash injury data;

- 1 (B) driver and carrier requirements;
- 2 (C) passenger transportation requirements;
- 3 (D) routes and operational requirements
- 4 that affect safety;
- 5 (E) vehicle attributes that affect safety;
- 6 (F) bus construction and design standards;
- 7 (G) Federal and State operating assistance
- 8 (per passenger, per mile, per hour);
- 9 (H) total operating costs;
- 10 (I) Federal and State capital assistance
- 11 (per passenger, per mile, per hour);
- 12 (J) total capital costs; and
- 13 (K) any other factor that the Secretary
- 14 considers appropriate.

15 (b) REPORT.—

16 (1) IN GENERAL.—Not later than 1 year after
17 the date of enactment of this Act, the Secretary
18 shall submit to the committees described in para-
19 graph (2) a report on the results of the study car-
20 ried out under subsection (a).

21 (2) COMMITTEES.—The committees referred to
22 in paragraph (1) are—

- 23 (A) the Committee on Environment and
- 24 Public Works of the Senate;

1 (B) the Committee on Commerce, Science,
2 and Transportation of the Senate;

3 (C) the Committee on Appropriations of
4 the Senate;

5 (D) the Committee on Transportation and
6 Infrastructure of the House of Representatives;

7 (E) the Committee on Commerce of the
8 House of Representatives; and

9 (F) the Committee on Appropriations of
10 the House of Representatives.

11 **SEC. 12. IMPROVED INTERSTATE SCHOOL BUS SAFETY.**

12 (a) APPLICABILITY OF FEDERAL MOTOR CARRIER
13 SAFETY REGULATIONS TO INTERSTATE SCHOOL BUS OP-
14 ERATIONS.—Section 31136 of title 49, United States
15 Code, is amended—

16 (1) by striking the second sentence of sub-
17 section (e); and

18 (2) by adding at the end the following new sub-
19 section:

20 “(g) APPLICABILITY TO SCHOOL TRANSPORTATION
21 OPERATIONS OF LOCAL EDUCATIONAL AGENCIES.—Not
22 later than 18 months after the date of enactment of this
23 subsection, the Secretary shall issue regulations making
24 the relevant commercial motor carrier safety regulations
25 issued under subsection (a) applicable to all interstate

1 school transportation operations by local educational agen-
2 cies (as defined in section 14101 of the Elementary and
3 Secondary Education Act of 1965 (20 U.S.C. 8801)).”.

4 (b) EDUCATION PROGRAM.—Not later than 180 days
5 after the date of enactment of this Act, the Secretary shall
6 develop and implement an education program informing
7 all local educational agencies that those agencies are re-
8 quired to comply with the Federal commercial motor vehi-
9 cle safety regulations issued under section 31136 of title
10 49, United States Code, when providing interstate trans-
11 portation on a school bus vehicle to and from school-san-
12 tioned and school-related activities.

13 **SEC. 13. AUTHORIZATION OF APPROPRIATIONS.**

14 There are authorized to be appropriated such sums
15 as are necessary to carry out this Act.

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